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**From:** Sonya Constantinou  
**Sent:** 19/09/2023 4:14:24 PM  
**To:** Thomas Prosser  
**Cc:** Council Northernbeaches Mailbox  
**Subject:** TRIMMED: Submission to DA2023/0976 at 20 - 22 Macpherson Street, Warriewood  
**Attachments:** Submission - DA2023-0976 - 20-22 Macpherson Street Warriewood.pdf;

Hi Tom,

Further to your earlier correspondence with Ben, please see attached the formal submission to DA2023/0976 at 20 – 22 Macpherson Street, Warriewood, on behalf of SP36619 at 26 Macpherson Street, Warriewood.

If you have any questions about the items raised within the letter, please feel free to contact me.

Kind regards,

**Sonya Constantinou**

Senior Planner, Creative Planning Solutions

Ph: [REDACTED]

The logo for Creative Planning Solutions (CPS) consists of the letters 'CPS' in a large, bold, sans-serif font.

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19 September 2023

Northern Beaches Council  
PO Box 82  
MANLY NSW 1655

Attn: Mr Thomas Prosser

Dear Mr Prosser,

**SUBMISSION TO DEVELOPMENT APPLICATION NO. DA2023/0976  
20 – 22 MACPHERSON STREET, WARRIEWOOD NSW 2102**

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Creative Planning Solutions (CPS) represents the owners of SP36619 at 26 Macpherson Street, Warriewood. This site adjoins the western side boundary of 20 – 22 Macpherson Street, Warriewood ('the subject site'); refer to **Figure 1** below.

The development application, DA2023/0976, ('the DA') seeks consent for demolition works, civil and infrastructure works, subdivision into 53 lots and one community title road, the construction of 53 dwellings and associated works. The notification letter indicates that the advertising period ends on 29 August 2023; however, an extension was provided by Mr Prosser for CPS to provide a submission to Council for DA2023/0976 on behalf of SP36619.



**Figure 1:** Aerial image of the subject locality, with the development site outlined in red, and in yellow is the property under SP36619 for whom this letter objecting the DA has been prepared on behalf of. in yellow.

Source: Nearmap, 30 August 2023.

On behalf of the owners of SP36619, the following objections are raised:

## 1. Biodiversity and Landscaping

The proposal fails to provide the 25m public and 25m private riparian corridor as required under clause 6.1 and 7.6 of *Pittwater Local Environmental Plan 2014 (PLEP)*. The subdivision plans and Vegetation Management Plan do not clearly identify the Inner 25m Riparian Corridor, and Lot 23 is not clearly defined on the plans or within the supporting documentation. In particular, the 25m Outer Riparian Corridor includes the private rear yards of 14 lots (Lots 48 – 57 and 58 – 61) as well as rights of way, which does not comply with the Warriewood Valley controls and Design Guidelines.

The development has failed to identify the retention, restoration and revegetation of flora and fauna habitats, with the other permissible passive public uses (basins, roads etc) confined to the outer 25m. The design of the outer corridor riparian buffer is not adequately detailed on the Landscape Plan and inappropriately includes areas that relate to private lots or right of ways.

Extensive cut and fill is proposed within the creek line corridor, and this has not been appropriately accounted for in the proposed vegetation management measures of the Vegetation Management Plan.

The development has failed to provide a pedestrian and cyclist network in accordance with the Warriewood Valley Landscape Masterplan & Design Guidelines (Public Domain) as outlined within C6.4 of Pittwater Development Control Plan (PDCP).

The proposal seeks to provide timber decking within the rear yards of most dwellings and this area has contributed to the Applicant's required landscaped area calculations. Timber decking however does not constitute landscaped area and should not form part of the total landscape calculation. The development in its current form fails to comply with the required landscape provisions provided by PDCP. Visually, the provision of decking within the rear yard does not allow for a soft landscape boundary between neighbouring properties. The inadequacy of landscaping between neighbouring properties negatively impacts on the amenity and visual outlook of neighbours – see further discussion below.

## **2. Traffic and Parking**

The proposed development requires separate visitor parking to be provided at a rate of 1 space per 3 dwellings. Based on a total of 53 dwellings, 18 visitor parking spaces are required.

The development provides a total of 15 visitor parking spots within the creek line corridor area which is contrary to clause 6.1 and 7.6 of PLEP, and 12 visitor spaces are provided along proposed Driveway 2. The internal roadway widths do not comply with the stipulated access road, verge and footpath widths as detailed in the Warriewood Roads Masterplan dated June 2018. As such, parking cannot reasonably be accommodated within the nominated access roads.

For these reasons, the visitor parking spaces are inadequate and cannot be counted towards the total required number of visitor parking spaces. In this regard, the development fails to achieve compliance with part B6.3 of the PDCP.

In addition to the above, it is evident from the numerous submissions objecting to the DA that there is a severe lack of parking within the area, and the proposed development will only intensify this problem.

Furthermore, as the internal roadway widths do not comply with the stipulated access road, verge and footpath widths, the proposal in its current form would not be able to accommodate daily deliveries (Australia post, grocery deliveries etc.) or weekly garbage collections. The flow on effects of insufficient road widths would have negative impacts upon the existing road network, and only serve to compound the existing parking problems experienced in the local area.

### 3. Building Height

Pursuant to clause 4.3 height of buildings of the PLEP, the site has a maximum building height of 10.5m. The site is also identified within “Area 6” on the height of buildings map and therefore buildings within 12.5m of Macpherson Street must not exceed a maximum height of 8.5m.

The architectural plans provided with the DA do not accurately identify the maximum building height of the proposed dwellings. An example of this inaccuracy is provided below for the attached dwellings fronting Macpherson Street (refer to *Figure 2*).



**Figure 2:** Excerpt of elevation 01.c from Architectural Plans for dwellings fronting Macpherson Street. A height line has been marked demonstrating that based on the existing ground levels, the maximum building height of Lot 9 Type B2 is approximately 8.15m.

The excerpt of elevation 01.c from Architectural Plans for dwellings fronting Macpherson Street provides a height line that applies to the site as viewed from the street only. However, no further section plans have been provided to accurately demonstrate that other portions of the site comply with the maximum building height. Given the lack of information provided on the plans, there is a likelihood that the proposed development may exceed the development standard provided for the site.

When calculating the maximum building height of the development, regard to the following definitions within the Dictionary of PLEP is required:

**building height (or height of building)** means:

- a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or
  - b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,
- including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

**ground level (existing)** means the existing level of a site at any point.

The plans in their current form, omit the existing ground levels of the site from the elevation and section plans, and some dwellings are not provided with section plans to begin with. Additionally, no RLs are provided upon the floor plans or roof plans and as such, the maximum building height of each dwelling cannot be confirmed as per the definition provided above.

Compliance with development standard clause 4.3 height of buildings has not been demonstrated.

#### 4. Flood Planning and Earthworks

The site is identified on the NBC Flood Hazard Map as land of partly low, medium and high flood risk (refer to *Figure 3*).

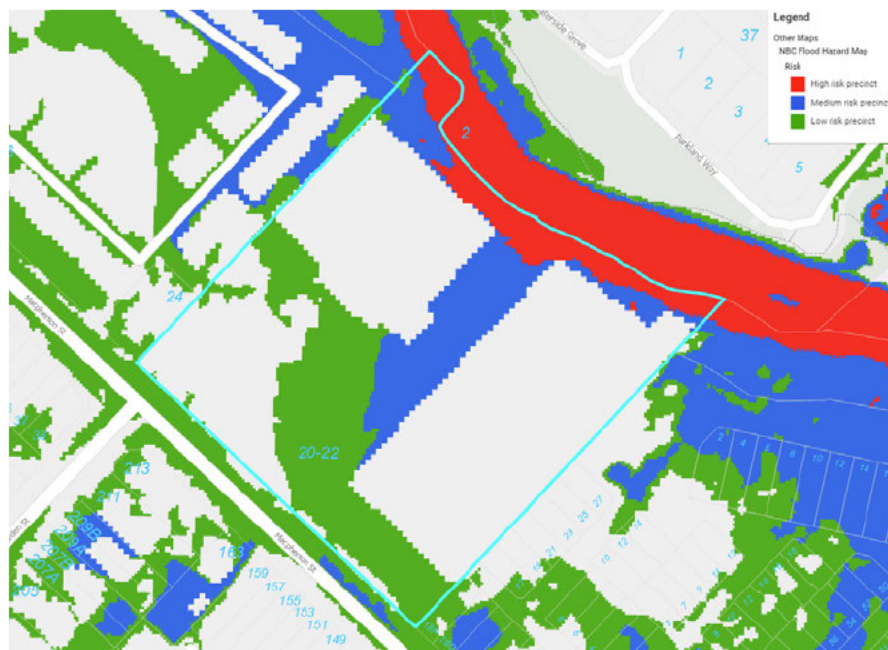


Figure 3: NBC Flood Hazard Map Risk. Subject site outlined in light blue.

A Flood Impact and Risk Assessment has been prepared to support the DA. The assessment provided has identified that the development complies with the 1% AEP, 1% AEP + 30% CC (climate change), PMF and PMF + 30%CC.

To enable compliance with these levels, substantial fill is required over the site. Specifically, at the western boundary of the site, Lot 60 will have an FFL of 10.71 and will likely require approximately 1.5m of fill located within 900mm of the boundary shared with 26 Macpherson Street. Similarly, Lot 41 is provided with an FFL of 10.71, and this will likely require approximately 2m of fill located 4m from the shared boundary.

The plans provided have not identified the finished ground levels of the private open space areas to confirm the amount of fill proposed within this area. The excessive earthworks for the site have

associated impacts, including overlooking to the private open space of the dwellings at the eastern boundary of 26 Macpherson Street. The proposed private open space, main living area and terrace of Bedroom 1 of Lots 35 – 41 will have a direct outlook to the private open space and living areas of the dwellings located at the eastern boundary of 26 Macpherson Street.

The documentation provided with the DA has not considered the associated impacts of the earthworks on adjoining properties or the impacts within the development and therefore does not satisfy clause 7.2 of PLEP.

To satisfy clause 7.2 of the PLEP, it is recommended that Council request an overlay of the proposed finished floor levels and ground levels be provided on the ground floor master plan and sight line diagrams are provided. At a minimum, these should be provided for proposed Lots 35 – 41 looking towards the eastern boundary of 26 Macpherson Street.

It is noted that this information has partly been provided within the landscape concept plan however, for completeness it would be better placed within the architectural set as well. It is also requested, that the details of retaining walls, with a shared boundary to 26 Macpherson Street, are provided on the plans.

## 5. Solar Access

D16.9 of the PDCP requires proposals to consider the impact of the development on existing adjoining residential development, where the principal living area and private open space within an existing adjoining dwelling currently receives sunshine during midwinter, any proposed adjacent development is not to reduce that solar access below three hours.

Within the architectural plan set, only proposed shadow diagrams are provided for the development. The shadow diagrams in their current form do not identify the shadows cast from existing or proposed boundary fences within the development or on adjoining properties. As such, the plans do not demonstrate that D16.9 of PDCP can be satisfied.

## 6. Visual Outlook

Based on the items raised above, it is clear the developer has provided the maximum number of dwellings possible on the site that is allowed for under clause 6.1 of PLEP. However, poor site planning and a failure to appropriately consider the proposed development's relationship with adjoining property means the proposal will unduly impact on neighbours. In particular, dwellings along the eastern boundary of 26 Macpherson Street will share a boundary with private open spaces of Lots 35 – 41. These lots will have raised rear yards on decks rather than the required turfed area, and only fencing will separate from

neighbouring development. The lack of landscaping will provide no visual relief between the existing development at 26 Macpherson Street and the proposed development on the site. The absence of landscaping means the unrelieved bulk and scale of the proposal will be on permanent display for residents of SP36619.

The development in its current form does not allow for deep soil landscaping within the rear yards, which is contrary to the requirements provided within PDCP, and results in a poor design outcome, both to the development internally and the developments expression on the public domain.

## 7. Acid Sulfate Soils

The land is identified on the PLEP acid sulfate soils map as containing land of primarily class 4 acid sulfate soils and party class 5 acid sulfate soils. However, no acid sulfate soils management plan has been provided by the Applicant as part of the DA. The application has not confirmed the works include the following:

*Works more than 2 metres below the natural ground surface.*

*Works by which the watertable is likely to be lowered more than 2 metres below the natural ground surface.*

In the Geotechnical Report prepared by Douglas Partners submitted with the DA, it is stated that acid sulfate soils are likely to be present in all soils below the water table near the creek (i.e., the north-east site boundary) and in some horizons further away from the creek. As such, the application has failed to satisfy clause 7.1 of PLEP and the consent authority cannot grant consent to the development as per subclause (3) of clause 7.1 of PLEP.

## 8. Contamination

A Preliminary Site Investigation was prepared for the site by Douglas Partners. The findings from this investigation confirmed that a Detailed Site Investigation, Remediation Action Plan, and a Hazardous Building Materials Assessment need to be undertaken for the site, as the land may be contaminated. These reports have not been provided with the DA. Therefore, the application has failed to satisfy chapter 4 of *State Environmental Planning Policy (Resilience and Hazards) 2021* as the application has not confirmed that the land is suitable for residential accommodation. In accordance with clause 4.6 of this SEPP, the consent authority cannot grant consent to the development.



## 9. Aboriginal Heritage

Clause 5.10 of PLEP requires development to conserve Aboriginal objects and Aboriginal places of heritage significance. As evidences from the Aboriginal Heritage Office's referral response, there are known Aboriginal sites in the area and the site is identified as having high potential for unrecorded Aboriginal sites. The Applicant is required to prepare a Preliminary Aboriginal Heritage Assessment to satisfy Clause 5.10 of PLEP.

### CONCLUSION

It is evident from the points outlined within this submission that the DA is inadequately documented. This prevents a proper assessment of the impacts arising from the development. For this reason alone, consent for the DA should not be granted.

Based on the information that has however been submitted, it is evident the proposal constitutes an overdevelopment of the site. Little regard has been given to the context of the area. The proposal fails to ensure the new development can exist in harmony with neighbouring property, the natural or built environments.

The proposal fails to satisfy numerous planning controls, which helps demonstrate the site is not suitable for the intensity of development proposed. The proposal is therefore not in the public interest.

If the Applicant is afforded an opportunity to amend the DA, it is recommended the total number of dwellings be significantly reduced to ensure a development outcome that is more compatible with the locality, and better achieves the objectives sought for new development in 6.1 of PLEP and PDCP.

Should any revised plans or documents be submitted to Council as additional information, CPS and adjoining landowners at 26 Macpherson Street, hereby request to be notified and furnished with the revised plans or documents for review.

Yours sincerely,



Sonya Constantinou

Senior Planner - Creative Planning Solutions Pty Limited